

FREQUENTLY ASKED QUESTIONS REGARDING THE NEW PUBLIC CONSTRUCTION REFORM LAW*

Chapter 193 of the Acts of 2004, entitled "*An Act Further Regulating Public Construction In the Commonwealth*" was signed into law on July 19, 2004. Chapter 193 changed public construction statutes, thresholds, and procedures to be followed for public construction projects. Highlights of the new law include: new higher thresholds for general and filed sub-bidders; DCAM certification requirements for filed sub-bidders; prequalification requirements for both general bidders and filed sub-bidders on certain public building projects; an owner's project manager requirement for certain projects; an MBE/WBE program requirement for state funded municipal projects; and a new statute, M.G.L. c. 149A, created to permit the use of the construction manager at risk alternative delivery method on larger public building construction projects. In addition, the new law permits the use of the design build construction delivery method for larger public works projects.

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AFFIRMATIVE MARKETING PROGRAM

- 1. As a municipal awarding authority, how do the new affirmative marketing program requirements specified in the new law impact the procurement of public design and construction contracts?**

ANSWER: For any municipal design or construction project that includes funding provided by the Commonwealth, in whole or in part (such as reimbursements, grants and the like), awarding authorities will need to have MBE and WBE goals incorporated into both the design and construction procurement. The applicable MBE and WBE goals will be developed by DCAM in consultation with SOMWBA and published in the Central Register by DCAM, along with information about reductions or waivers of such goals in appropriate circumstances. SOMWBA has oversight responsibility of the affirmative marketing program for state assisted municipal projects.

2. What is an MBE or WBE?

ANSWER: An MBE or WBE is a minority-owned or women-owned business enterprise certified by the State Office of Minority and Women Business Assistance ("SOMWBA"). A list of currently certified MBEs and WBEs in the design and construction fields is available on SOMWBA's website at <http://www.somwba.state.ma.us>.